

**A RESOLUTION BY COUNCILMEMBER CARLA SMITH**

**AS SUBSTITUTED BY CITY UTILITIES COMMITTEE**

**AUTHORIZING PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF FIVE THOUSAND DOLLARS AND 00/100 (\$5,000.00) AS STIPULATED PENALTIES FOR THE VIOLATION OF FECAL COLIFORM STANDARDS AT THE TANYARD CREEK CSO ON OCTOBER 22, 2007 PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City of Atlanta ("City") has experienced a violation of Chlorine Operational Collection Standards as set out in Exhibit "A" hereto; and

**WHEREAS**, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT; and

**WHEREAS**, the Department of Watershed Management of the City does not dispute the fact this violation of Fecal Coliform Standards did occur; and

**WHEREAS**, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

**WHEREAS**, funds for this purpose are available in Fund, Account and Center Number 2J01-529017-Q30001; and

**WHEREAS**, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

**WHEREAS**, it is deemed to be in the interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to them.

**NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA** as follows:

**SECTION 1:** That the Chief Financial Officer of the City is authorized to issue checks in the amounts of Two Thousand Five Hundred Dollars and 00/100 (\$2,500.00) payable to the State of Georgia and Two Thousand Five Hundred Dollars and 00/100 (\$2,500.00) payable to the Treasurer, United States of America as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental Protection

Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia for said violations of Fecal Coliform Standards at the Tanyard Creek CSO on October 22, 2007.

**SECTION 2:** That said payments shall be charged to paid from Fund 2J01 (Water & Wastewater Revenue), Account 529017 (Property/Liquidation) and Center Number Q30001 (Deputy Commissioner, Treatment & Collection).

## **Exhibit A**

The City is subject to stipulated penalties for violations of the CSO Consent Decree, Section XI.D.3 as follows:

### **Section XI.D.3. Fecal Coliform November-April:**

<b>Date</b>	<b>Facility</b>	<b>Colonies/100 ml</b>	<b>Penalty</b>	<b>Comment</b>
2/25/07	Tanyard Creek	N/A	\$8500.00	Missed Sample

A RESOLUTION BY

COUNCILMEMBER CARLA SMITH

07- R -1911

**AUTHORIZING PAYMENT OF STIPULATED PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION AGENCY (EPA) AND THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF \$ \_\_\_\_\_ AS STIPULATED PENALTIES FOR THE VIOLATION OF CSO FECAL COLIFORM OPERATIONAL STANDARDS \_\_\_\_\_ PURSUANT TO THE CSO CONSENT DECREE, CIVIL ACTION FILE NO. 1:95-CV-2550-TWT; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.**

**WHEREAS**, the City has experience a violation to the CSO Consent Decree set out in Exhibit "A" hereto; and

**WHEREAS**, this violation is subject to stipulated penalties imposed at the discretion of the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) pursuant to the CSO Consent Decree, Civil Action File No. 1:95-CV-2550-TWT; and

**WHEREAS**, the Department of Watershed Management of the City does not dispute the fact this violation did occur; and

**WHEREAS**, the payment to EPA and EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

**WHEREAS**, funds for this purpose are available in Fund, Account and Center Number 2J01-529017-Q31001; and

**WHEREAS**, the CSO Consent Decree, Section XI. O. similarly provides for payment of interest on late payment of stipulated penalties; and

**WHEREAS**, it is deemed to be in the best interest of the City to accept the proposed stipulated penalties and to pay the incident assessments to the Environmental Protection Agency (EPA) and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD).

**NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA** as follows:

**Section 1:** That the Chief Financial Officer of the City of Atlanta is authorized to issue checks payable in the amount of \$ \_\_\_\_\_ to the **State of Georgia** and in the amount of \$ \_\_\_\_\_ to the **Treasurer, United States of America** as stipulated penalties imposed pursuant to the CSO Consent Decree at the discretion of the Environmental

Protection Agency and the Environmental Protection Division of the Department of Natural Resources of the State of Georgia.

**Section 2:** That said payments shall be charged to and paid from Fund, Account and Center Number 2J01 529017 Q30001.

**Section 3:** That all resolutions and parts of resolutions in conflict herewith be and are hereby waived in this instance only.

## **EXHIBIT A**

The City is subject to stipulated penalties for violations of the CSO Consent Decree, per Section \_\_\_\_\_ as follows:

### **CSO Consent Decree Section**

<b>Date</b>	<b>Facility</b>	<b>Colonies/100 ml</b>	<b>Penalty</b>	<b>Comment</b>
-------------	-----------------	------------------------	----------------	----------------